

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JON ELAM,

Plaintiff,

v.

FORD MOTOR COMPANY,

Defendant.

Case No. 1:24-cv-01085-JLT-SAB

ORDER STRIKING FIRST AMENDED
COMPLAINT

(ECF No. 9)

On July 8, 2024, Plaintiff Jon Elam filed a complaint in Fresno County Superior Court against Defendant Ford Motor Company (“Ford”). (ECF No. 1 at 14-22.) On September 12, 2024, Defendant Ford filed and served its answer to the complaint in state court and removed the matter to the Eastern District of California. (ECF No. 1 at 1-8, 27-33.) On October 4, 2024, Plaintiff filed a first amended complaint in this matter. (ECF No. 9.)

Amendment of the complaint is governed by Rule 15 of the Federal Rules of Civil Procedure which provides that a party may amend the party’s pleading once as a matter of course within twenty-one days of serving it or within twenty-one days after service of a defendant’s answer or applicable Rule 12 motion. Fed. R. Civ. P. 15(a)(1). Otherwise, a party may amend only by leave of the court or by written consent of the adverse party, and leave shall be freely given when justice so requires. Fed. R. Civ. P. 15(a)(2).

In this action, Defendant filed and served its answer to the complaint on September 12,

2024. (ECF No. 1 at 33.) Plaintiff filed his first amended complaint on October 4, 2024, twenty-two days after Defendant served its answer. Accordingly, Plaintiff must either get the written consent of the opposing party or seek leave from the Court to file a first amended complaint. Fed. R. Civ. P. 15(a)(2). Because Plaintiff failed to file a written stipulation to amend or a motion seeking leave to amend from the Court to file his first amended complaint, the Court shall strike the first amended complaint.

Accordingly, IT IS HEREBY ORDERED that Plaintiffs' first amended complaint (ECF No. 9) is stricken from the record.

IT IS SO ORDERED.

Dated: October 7, 2024


UNITED STATES MAGISTRATE JUDGE